

Introduced by Senator Yee

February 24, 2009

An act to add Section 51.15 to the Civil Code, relating to civil rights.

LEGISLATIVE COUNSEL'S DIGEST

SB 242, as amended, Yee. Civil rights: language restrictions.

The Unruh Civil Rights Act generally prohibits business establishments from discriminating on the basis of sex, race, color, religion, ancestry, national origin, disability, or medical condition. The act provides civil remedies for violations of its provisions. Under the California Fair Employment Housing Act, it is an unlawful employment practice for an employer to adopt or enforce a policy that prohibits the use of any language in the workplace, except if that policy is justified by business necessity, as defined, and prescribed notice of the policy and consequences for violation of the policy is given to employees.

This bill would make it a violation of the Unruh Civil Rights Act to adopt or enforce a policy that *requires*, limits, or prohibits the use of any language in *or with* a business establishment, unless the ~~language~~ *policy* is justified by a business necessity, as defined, and notification has been provided of the circumstances and the time when the language restriction *or requirement* is to be observed and of the consequences for its violation. The bill would define business necessity to require, among other things, that the language restriction *or requirement* is necessary ~~to~~ *for* the safe and efficient operation of the business and that an equally effective, but less discriminatory, alternative practice does not exist. The bill would provide for an award of damages, and

attorney's fees as may be determined by the court, for a violation of its provisions.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 51.15 is added to the Civil Code, to read:
2 51.15. (a) It is a violation of Section 51 to adopt or enforce a
3 policy that ~~limits~~ *requires, limits,* or prohibits the use of any
4 language in *or with* a business establishment, unless both of the
5 following conditions exist:
6 (1) The language restriction *or requirement* is justified by a
7 business necessity. For purposes of this section, “business
8 necessity” means an overriding legitimate business purpose for
9 which all of the following are true:
10 (A) The language restriction *or requirement* is necessary ~~to~~ *for*
11 the safe and efficient operation of the business.
12 (B) The language restriction *or requirement* effectively fulfills
13 the business purpose it is supposed to serve.
14 (C) An alternative practice to the language restriction *or*
15 *requirement* that would accomplish the business purpose equally
16 well with a lesser discriminatory impact does not exist.
17 (2) Notification has been provided of the circumstances and the
18 time when the language restriction *or requirement* is required to
19 be observed and of the consequences for its violation.
20 (b) In an action pursuant to this section, remedies shall be
21 awarded as provided in subdivision (a) of Section 52.
22 (c) *Nothing in this section shall be construed to impose a duty*
23 *on any business establishment to provide customer service in a*
24 *particular language unless that duty is otherwise required by law.*
25 (d) *The prohibitions and defenses under this section are in*
26 *addition to any other prohibitions and defenses under any other*
27 *section or other law, and the rights and remedies provided by this*
28 *section may be enforced independently of any other rights or*
29 *remedies.*
30 ~~(e)~~
31 (e) *Nothing in this section shall be construed to ~~limit~~ alter, limit,*
32 *or negate application of any other remedies or rights provided*
33 *under the Section 51 or any other law.*

1 (f) *This section does not apply to policies or rules regarding*
2 *the employment relationship between a business establishment*
3 *and its employees.*

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